IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee:	PRESTA ET AL.	Docket No.:	11669.92US01
Patent No.:	6,911,321		
Issued:	JUNE 28, 2005		
Title:	NON-HUMAN PRIMATE FC RECEPTORS AND METHODS OF USE		

REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request reconsideration of the patent term adjustment indicated on the face of U.S. Pat. No. 6,911,321 that issued from the above-identified application on June 28, 2005. The requisite fee of $200.00 set forth in 37 C.F.R. §1.18(e) is enclosed. This request for reconsideration is timely in accordance with 37 CFR 1.705(d), being filed within 2 months of the date of issuance.

Statement of the Facts

1.   On May 12, 2005, the Patent Office mailed a Decision on Application For Patent Term Adjustment in this case. The Decision stated that the Patent Office caused a total of 313 days of delay, while Applicants caused 160 days of delay, resulting in a Patent Term Adjustment (PTA) of 153 days.

2.   37 C.F.R. § 1.702(4) provides for a patent term adjustment when the Patent Office fails to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.SC. 151, and all outstanding requirements were satisfied. The Applicants paid the
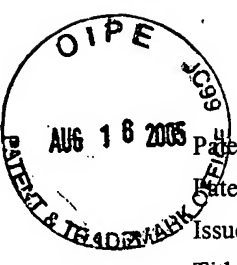
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee:	PRESTA ET AL.	Docket:	11669.92US01
Patent No.:	6,911,321		
Issued:	JUNE 28, 2005		
Title:	NON-HUMAN PRIMATE FC RECEPTORS AND METHODS OF USE		

CERTIFICATE UNDER 37 CFR 1.10:
"Express Mail" mailing label number: EV 639593252 US
Date of Deposit: August 16, 2005

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Patent Ext., Mail Stop Patent Ext., Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450.

By: _____
Name: Sheryl A. Boerboom

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Check in the amount of $200.00 for petition fee
- ☒ Request for Patent Term Adjustment Under 37 C.F.R. 1.705(d) with attached Exhibit A
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-272513-2725. A duplicate of this sheet is enclosed.

Merchant & Gould P.C.
P.O. Box 2903 Minneapolis, MN 55402-0903
612.332.5300

By: _____
Name: Katherine M. Kowalchyk
Reg. No.: 36,848
KKowalchyk:sab

23552
PATENT TRADEMARK OFFICE

(PTO TRANSMITTAL - POST ISSUANCE)

issue fee on June 18, 2004, at which time Applicants submit all outstanding requirements were satisfied. The present patent did not issue, however, until June 28, 2005. Therefore, Applicants submit that the Patent Office caused a delay of 253 days beyond the four-month deadline recited by 37 C.F.R. § 1.702(4). Consequently, the Patent Office caused a total delay of 566 days (the 313 days indicated in the Decision on Application for Patent Term Adjustment, plus 253 days as discussed in this paragraph).

3.   The Applicants submit that Applicants incurred an additional 3 days of delay when filing the Payment of Issue Fee on June 18, 2005. Therefore, Applicants incurred a total of 163 days of delay (160 days plus 3 days). The Applicants believe there were no further circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704.

4.   For the foregoing reasons, the Applicants are entitled to a Patent Term Adjustment of 403 days (566 days of Patent Office delay minus 163 days of Applicants' delays).

5.   The Patent Term Adjustment History displayed on the PAIR system now indicates an additional Applicant delay of 120 days, due to the filing of a "miscellaneous paper" after allowance on June 15, 2004. The Applicants note that the 120 days of alleged delay would account for the discrepancy between the correct PTA, and the PTA indicated on the face of the issued patent. Applicants further note, however, that this miscellaneous paper was a Petition for Reconsideration of Patent Term Adjustment. (Copy attached as Exhibit A.) In accordance with 37 CFR 1.704(e), a Petition for Reconsideration of Patent Term Adjustment is not considered a failure to engage in reasonable efforts to conclude prosecution under 37 CFR 1.704(c)(10). Therefore, the Applicants submit that this additional 120-day reduction was erroneous.

6.   Applicants submit that the present application is not subject to a terminal disclaimer.

7.   Applicants respectfully request that the term of U.S. Pat. No. 6,911,321 be extended for a period of 403 days, and further request the issuance of a Certificate of Correction to that effect.

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8.   If there are any outstanding issues or a need for any clarification on this matter, the Patent Office is invited to telephone the undersigned attorney.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
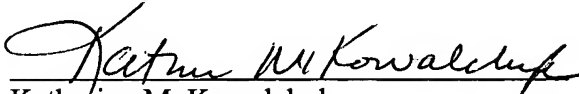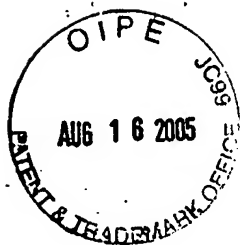(612) 332-5300

Date: _August 16, 2005_   _Katherine M Kowalchyk_
Katherine M. Kowalchyk
Reg. No. 36,848
KMK:GJG

23552
PATENT TRADEMARK OFFICE

EXHIBIT A
ATTACHED TO REQUEST FOR PATENT
TERM ADJUSTMENT
DATED AUGUST 16, 2005
PATENT NO. 6,911,321

Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office:

In re Application of: PRESTA ET AL.

For: NON-HUMAN PRIMATE Fc RECEPTORS AND METHODS OF USE

Docket No.: 11669.92US01

Filed: DECEMBER 19, 2001   Serial No.: 10/027,736

Express Mail No.: EV 408488611 US   Due Date:

Date Mailed: June 15, 2004

☒ Transmittal Sheet in duplicate containing Certificate of Mailing
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MINNEAPOLIS       MN 55402-5336
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KKowalchyk· sab

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Vendor # / Name: 1002   Director of the United States Patent and Trademark Office

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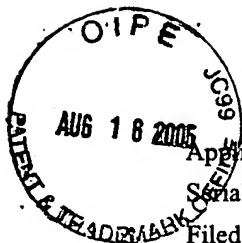
Merchant & Gould P.C.

Director of the United States Patent and Trademark Office

Alan W. Kowalchyk

Two Signatures Required For Amounts Exceeding $5,000

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Applicant:	PRESTA ET AL.	Examiner:	M. BELYAVSKYI
Serial No.:	10/027,736	Group Art Unit:	1644
Filed:	DECEMBER 19, 2001	Docket:	11669.92US01
Confirmation No.:	9756	Notice of Allow. Date:	MARCH 15, 2004
Customer No.:	23552		
Title:	NON-HUMAN PRIMATE Fc RECEPTORS AND METHODS OF USE		

CERTIFICATE UNDER 37 CFR 1.10:
"Express Mail" mailing label number: EV 408488611 US
Date of Deposit: June 15, 2004

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Patent Ext, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: _Sheryl A. Boerbom_
Name: Sheryl A. Boerbom

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

23552
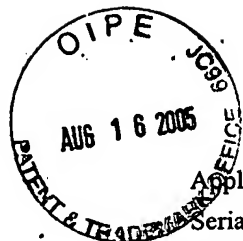PATENT TRADEMARK OFFICE

Sir:

We are transmitting herewith the attached:

☒ Transmittal Sheet in duplicate containing Certificate of Mailing
☒ Request for Patent Term Adjustment Under 37 C.F.R. 1.705(b)
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Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

By: _Katherine M Kowalchyk_
Name: Katherine M. Kowalchyk
Reg. No.: 36,848
KMKowalchyk:sab

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	PRESTA ET AL.	Examiner:	M. BELYAVSKYI
Serial No.:	10/027,736	Group Art Unit:	1644
Filed:	DECEMBER 19, 2001	Docket:	11669.92US01
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By: _Sheryl A. Boerboom_
Name: Sheryl A. Boerboom

23552
PATENT TRADEMARK OFFICE

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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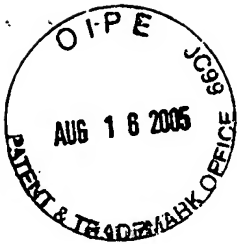
MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
612.332.5300

By: _Katherine M Kowalchyk_
Name: Katherine M. Kowalchyk
Reg. No.: 36,848
KMKowalchyk:sab

(PTO TRANSMITTAL - GENERAL)

S/N 10/027,736 PATENT

<u>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</u>

Applicant:	PRESTA ET AL.	Examiner:	M. BELYAVSKYI
Serial No.:	10/027,736	Group Art Unit:	1644
Filed:	DECEMBER 19, 2001	Docket No.:	11669.92US01
Confirmation No.:	9756	Customer No.:	23552
Title:	NON-HUMAN PRIMATE Fc RECEPTORS AND METHODS OF USE		

<u>REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)</u>

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby request reconsideration of the patent term adjustment indicated in the Notice of Allowance. The requisite fee of $200.00 set forth in 37 C.F.R. §1.18(e) is enclosed.

<u>Statement of the Facts</u>

1.   The Notice of Allowance mailed for this application indicated a patent term adjustment of 153 days. Applicants respectfully submit that a patent term adjustment of 157 days is indicated by the Rules.

2.   37 C.F.R. § 1.703 provides for a patent term adjustment for the number of days in the period beginning the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), and ending on the date of mailing of an action under 35 U.S.C. 132. The first action on the merits taken by the Patent Office was a Restriction

Requirement mailed December 29, 2003. Thus, the Patent Office caused a delay of 313 days in excess of the 14 month deadline imposed by C.F.R. § 1.703.

3.   Applicants filed the present application on December 19, 2001. On March 1, 2002, the Patent Office mailed a Notice to File Missing Parts, requiring Applicants to file an Oath/Declaration and a Sequence Listing. On February 11, 2002, Applicants submitted a Declaration and Sequence Listing, thereby complying with the Notice. Therefore, Applicants fully replied to the Notice to File Missing Parts within the 3-month response period allowed before Applicants begin to accrue a delay for Patent Term Adjustment purposes under 37 C.F.R. 1.704(b), and therefore incurred no delay in the prosecution of the application.

4.   On June 17, 2002, the Patent Office mailed a Notice to Comply, asserting that Applicants' Sequence Listing did not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823. On August 19, 2002, Applicants submitted a new sequence listing. Therefore, Applicants incurred a delay of 116 days, measured from April 25, 2002, the day after filing the response containing the omission, to August 19, 2002, the date Applicants filed a response correcting the omission. Applicants submit that the Patent Office's calculation of a 120 day delay for this period is erroneous.

5.   Applicants filed a Supplemental Information Disclosure Statement (IDS) on March 2, 2004. Since this IDS was filed after a reply was filed to a Restriction Requirement on January 22, 2004, Applicants incurred a delay of 40 days in the prosecution of the application.

6.   Applicants submit that there were no further circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704.

7.   The Patent Office has calculated 160 days of delay on the part of the Applicants and 313 days of delay by the Patent Office, resulting in a Patent Term Adjustment of 153 days. Applicants submit that this calculation is erroneous. In fact, as noted above, Applicants only caused a delay of 156 days. Therefore, Applicants submit that they are entitled to a Patent Term Adjustment of 157 days.

6.   Applicants submit that the present application is not subject to a terminal disclaimer.

7.   Applicants respectfully request that the term of the patent be extended for a period of 157 days.

8.   If there are any outstanding issues or a need for any clarification on this matter, the Patent Office is invited to telephone the undersigned attorney.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300

Date: _June 15, 2004_

Katherine M. Kowalchyk
Reg. No. 36,848

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